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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF ARIZONA**

8 Benton Gene Baskin,
9 Plaintiff
10 -vs-
11 Todd Thomas, et al.,
12 Defendants.

CV-21-1890-PHX-SPL (JFM)

13 **Order**

14 Plaintiff seeks 30-day, second extensions of the March 6, 2023 deadline to respond
15 to Defendants Diaz and Giaboian's Motion to Dismiss (Doc. 21) and Defendant
16 Westbrook's Motion to Dismiss (Doc. 20), citing as cause interruptions in Plaintiff's ability
17 to access the law library computers due prison investigations and changes in technology.
18 (Motions to Extend, Docs. 30, 31.)

19 Plaintiff's motions were received and docketed on March 7, 2023. Under the prison
20 mailbox rule, a prisoner's filings are deemed "filed" at the time they are delivered to prison
21 officials for mailing. *See Stillman v. LaMarque*, 319 F.3d 1199 (9th Cir. 2003). Here,
22 Plaintiff provides no evidence of delivery to prison officials for mailing. Instead, his
23 certificates indicate his filings were "deposit[ed]...in the United States Mail." (Doc. 30 at
24 3; Doc. 31 at 3.) Accordingly, the filings were untimely and would be subject to the
25 excusable neglect standard.

26 However, no response has been timely filed, and the Court deems such lack of
27 response a consent to the granting of the motion. LRCiv. 7.2(i).

28 The Court observes that these motions have now been pending since January 3,
2023. Plaintiff is cautioned that further extensions are unlikely to be granted.

IT IS THEREFORE ORDERED:

(A) Plaintiff's Motion to Extend (Doc. 30) is **GRANTED**.


1 (B) Plaintiff has through **April 5, 2023** to respond to Defendants Diaz and Giaboian's
2 Motion to Dismiss or in the alternative to Transfer (Doc. 21).

3 (C) Plaintiff's Motion to Extend (Doc. 31) is **GRANTED**.

4 (D) Plaintiff has through **April 5, 2023** to respond to Defendants Westbrook's Motion to
5 Dismiss (Doc. 20).

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7 Dated: March 24, 2023

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James F. Metcalf
United States Magistrate Judge